



Postal Registration No. N. E.—771/2006-2008

The Gazette of Meghalaya

PUBLISHED BY AUTHORITY

No. 7 Shillong, Thursday, March 20, 2008, 30th Phalguna, 1929 (S. E.)

PART - VII

GOVERNMENT OF MEGHALAYA

ORDERS BY THE GOVERNOR

NOTIFICATION

The 8th March, 2006.

No.LL(B).9/2006/27.—The following Act passed by the Parliament and assent by the President of India and published in the Gazette of India *Extra-Ordinary*, Part II Section I, on the date below is hereby republished for general information

No. Name of Act	Act Nos. and Years	Date of Publication in the Gazette of India
1. The Punjab General Sales Tax (As in Force in the Union Territory of Chandigarh Repeal Act, 2005).	Act No. 48 of 2006	14th December, 2005
2. The National Tax Tribunal Act, 2005	Act No. 49 of 2005	20th December, 2005
3. The State Emblem of India (Prohibition of Improper Use) Act, 2005.	Act No. 50 of 2005	20th December, 2005
4. The Prevention of Insults to National Honour (Amendment) Act, 2005.	Act No. 51 of 2005	20th December, 2005
5. The Appropriation (Railways) No. 5 Act, 2005.	Act No. 52 of 2005	20th December, 2005
6. The Disaster Management Act, 2005	Act No. 53 of 2005	23rd December, 2005.

THE PUNJAB GENERAL SALES TAX (AS IN FORCE IN THE UNION TERRITORY OF CHANDIGARH REPEAL ACT 2005)

An

Act

to repeal the Punjab General Sales Tax Act, 1948, as in force in
the Union territory of Chandigarh

Be it enacted by Parliament in the Fifty-sixth Year of the
Republic of India as follows:-

- | | |
|-----------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| 1. This Act may be called the Punjab General Sales Tax (As in force in the Union territory of Chandigarh) Repeal Act, 2005. | Short title |
| 2. The Punjab General Sales Tax Act, 1948, as in force in the Union territory of Chandigarh, is hereby repealed. | Repeal of Punjab Act 46 of 1948. |
| 3. The State Emblem of India (Prohibition of Improper Use) Act, 2005. | |
| 4. The Prevention of Insults to National Honour (Amendment) Act, 2005. | |
| 5. The Appropriation (Railways) No. 5 Act, 2005. | |
| 6. The Disaster Management Act, 2005. | |

THE NATIONAL TAX TRIBUNAL ACT, 2005

ARRANGEMENT OF SECTION

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THE SCHEDULE.

THE NATIONAL TAX TRIBUNAL ACT, 2005

An

Act

to provide for the adjudication by the National Tax Tribunal of disputes with respect to levy, assessment, collection and enforcement of direct taxes and also to provide for the adjudication by that Tribunal of disputes with respect to the determination of the rates of duties of customs and central excise on goods and the valuation of goods for the purposes of assessment of such duties as well as in matters relating to levy of tax on service, in pursuance of article 323B of the Constitution and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Tax Tribunal Act, 2005.

**Short title,
extent and
commencement.**

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definations

2. In this Act, unless the context otherwise requires,-

(a) "Bench" means a Bench of the National Tax Tribunal;

(b) "Board of Direct Taxes" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

54 of 1963

(c) "Board of Excise and Customs" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;

54 of 1963

(d) "Central Excise Act" means the Central Excise Act, 1944;

1 of 1944

(e) "Central Excise Tariff Act" means the Central Excise Tariff Act, 1985;

5 of 1986

- (f) "Chairperson" means the Chairperson of the National Tax Tribunal;
- (g) "Companies (Profits) Surtax Act" means the Companies (Profits) Surtax Act, 1964; **7 of 1964**
- (h) "Customs Act" means the Customs Act, 1962; **52 of 1962**
- (i) "Customs, Excise and Service Tax Appellate Tribunal" means the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962; **52 of 1962**
- (j) "Customs Tariff Act" means the Customs Tariff Act, 1975; **51 of 1975**
- (k) "Expenditure-tax Act" means the Expenditure-tax Act, 1987; **35 of 1987**
- (l) "Gift-tax Act" means the Gift-tax Act, 1958; **18 of 1958**
- (m) "Income-tax Act" means the Income tax Act, 1961; **43 of 1961**
- (n) "Income-tax Appellate Tribunal" means the Income-tax Appellate Tribunal constituted under section 252 of the Income-tax Act, 1961; **43 of 1961**
- (o) "Interest-tax Act" means the Interest-tax Act, 1974; **45 of 1974**
- (p) "law officer" means the Attorney-General for India, the Solicitor General of India or the Additional Solicitor General of India;
- (q) "Member" means a Member of the National Tax Tribunal and includes the Chairperson;
- (r) "National Tax Tribunal" means the National Tax Tribunal established under section 3;
- (s) "notification" means a notification published in the Official Gazette;
- (t) "prescribed" means prescribed by rules made under this Act;
- (u) "Supreme Court" means the Supreme Court of India;
- (v) "Wealth tax Act" means the Wealth-tax Act, 1957; **27 of 1957**
- (w) words and expressions used in this Act but not defined herein and defined in the Central Excise Act, the Central Excise-Tariff Act, the Customs Act, the Customs Tariff Act (hereinafter referred to as the indirect taxes) or the rules made thereunder or in Chapter V of the Finance Act, 1994 shall have the meanings, respectively, assigned to them in the said Acts or the rules made thereunder; **32 of 1994**

(x) words and expressions used in this Act but not defined herein and defined in the Income-tax Act, the Wealth-tax Act, the Gift-tax Act, the Expenditure-tax Act, the Interest-tax Act or the Companies (Profits) Surtax Act (hereinafter referred to as the direct taxes) or the rules made thereunder shall have the meanings, respectively, assigned to them in the said Acts or the rules made thereunder.

CHAPTER II

ESTABLISHMENT OF THE NATIONAL TAX TRIBUNAL

3. The Central Government shall, by notification in the Official Gazette, establish with effect from such date as may be specified therein, a Tax Tribunal to be known as the National Tax Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

**Establishment
of National Tax
Tribunal**

4. The National Tax Tribunal shall consist of a Chairperson and such number of Members as the Central Government deems fit, to be appointed by that Government, by notification in the Official Gazette.

**Compositions
of National Tax
Tribunal**

5. (1) The jurisdiction of the National Tax Tribunal may be exercised by the Benches thereof to be constituted by the Chairperson.

**Constitution
and
jurisdiction of
Benches**

(2) The Benches of the National Tax Tribunal shall ordinarily sit at any place in the National Capital Territory of Delhi or such other places as the Central Government may, in consultation with the Chairperson, notify:

Provided that the Chairperson may for adequate reasons permit a Bench to hold its temporary sitting for a period not exceeding fifteen days at a place other than its ordinary place of seat.

(3) The Central Government shall notify the areas in relation to which each Bench of the National Tax Tribunal may exercise its jurisdiction.

(4) The Central Government shall determine the number of Benches and each Bench shall consist of two members.

(5) The Central Government may in consultation with the Chairperson transfer a Member from headquarters of one Bench in one State to the headquarters of another Bench in another State or to the headquarters of any other Bench within a State.

	<p>6. (1) The Chairperson of the National Tax Tribunal shall be a person who has been a Judge of the Supreme Court or the Chief Justice of a High Court.</p> <p>(2) A person shall not be qualified for appointment as Member unless he-(a) is, or has been, or is eligible to be, a Judge of a High Court; or</p> <p>(b) is, or has been, a Member of the Income-tax Appellate Tribunal or of the Customs, Excise and Service Tax Appellate Tribunal for at least seven years.</p>	<p>Qualification for appointment of Chairperson and other Members</p>
	<p>7. (1) Subject to the provisions of sub-section (2), the Chairperson and every other Member shall be appointed by the Central Government.</p> <p>(2) The Chairperson and the other Members shall be appointed by the Central Government on the recommendations of a Selection Committee consisting of-</p> <p>(a) the Chief Justice of India or a Judge of the Supreme Court nominated by him;</p> <p>(b) the Secretary in the Ministry of Law and Justice (Department of Legal Affairs);</p> <p>(c) the Secretary in the Ministry of Finance (Department of Revenue).</p> <p>(3) No appointment of the Chairperson or of any other Member shall be invalidated merely by reason of any vacancy or any defect in the constitution of the Selection Committee.</p>	<p>Appointment of Chairperson and other Members</p>
<p>Terms of office of Chairperson and other Members</p>	<p>8. The Chairperson and every other Member shall hold office as such for a term of five years from the date on which he enters upon his office but shall be eligible for re-appointment:</p> <p>Provided that no Chairperson or other Member shall hold office as such after he has attained,-</p> <p>(a) in the case of Chairperson, the age of sixty-eight years; and</p> <p>(b) in the case of any other Member, the age of sixty-five years.</p>	
<p>Resignation of Chairperson and other Members.</p>	<p>9. The Chairperson or any other Member may, by notice in writing under his hand addressed to the Central Government, resign his office.</p>	
<p>Salary and allowances</p>	<p>10. (1) Subject to the provisions of this Act, the salary and allowances and other terms and conditions of the Chairperson shall be the same as applicable to a sitting Judge of the Supreme Court, but no vacation shall be allowed:</p>	

Provided that if a person who, immediately before the date of assuming the office as the Chairperson was in receipt of or being eligible so to do, had elected to draw, a pension in respect of any previous service or office held by such person under the Government of the Union or of a State, his salary in respect of service as Chairperson shall be reduced by the amount of that pension.

Explanation:- For the purposes of this sub-section, vacation shall have the meaning assigned to it in the Supreme Court Judges (Conditions of Service) Act, 1958.

41 of 1958

(2) A Member shall draw salary of a High Court Judge and other allowances and the terms and conditions of his service shall be the same as applicable to a Secretary to the Government of India:

Provided that if a person who, immediately before the date of assuming the office as Member was in receipt of, or being eligible so to do, had elected to draw, a pension in respect of any previous service held by such person in connection with the affairs of the Union or of a State, his salary in respect of service as Member shall be reduced to the extent of that pension.

(3) The salary and allowances and other terms and conditions of service of Chairperson or a Member of the Tribunal shall not be varied to his disadvantage after appointment.

**Removal and
suspension of
Chairperson
and other
Members**

11. (1) The Central Government may, in consultation with the Chief Justice of India, remove from office the Chairperson or any Member who-

- (a) has been adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as such Chairperson or Member of the National Tax Tribunal; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member of the National Tax Tribunal; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or any other Member shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which such Chairperson or Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may suspend from office the Chairperson or any other Member in respect of whom a reference of conducting an inquiry has been made to the Judge of the Supreme Court under sub-section (2) until the Central Government has passed orders on receipt of the report of the Judge of the Supreme Court on such reference.

(4) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson or a Member referred to in sub-section (2).

12. (1) The Central Government shall provide the National Tax Tribunal with such officers and employees as it may deem fit.

**Officers and
employees of
National Tax
Tribunal**

(2) The salaries and allowances and other conditions of service of officers and employees of the National Tax Tribunal shall be such as may be prescribed.

(3) The officers and employees of the National Tax Tribunal shall discharge their functions under the general superintendence of the Chairperson.

(4) The officers and the other employees shall be appointed on the recommendations of a Selection Committee constituted by the Central Government.

13. (1) A party to an appeal other than Government may either appear in person or authorise one or more chartered accountants or legal practitioners or any person duly authorised by him or it to present his or its case before the National Tax Tribunal.

**Appearance
before
National Tax
Tribunal**

(2) The Government may authorise one or more legal practitioners or any of its officers to present its case before the National Tax Tribunal.

Explanation-. -For the purposes of this section,-

38 of 1949

(a) “chartered accountant means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “legal practitioner” means an advocate, a *vakil* or any attorney of any High Court, and includes a pleader in practice.

14. (1) In the event of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Central Government may designate the senior-most Member to act as the Chairperson until the day on which a Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

**Member to act
as
Chairperson
or to
discharge his
function in
certain
circumstances**

(2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the Central Government may authorise the senior-most Member to discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

(3) The senior-most Member designated to act under sub-section (1) or to discharge functions of the Chairperson under sub-section (2), of the Chairperson shall continue to draw salary and allowances of a Member.

CHAPTER III

JURISDICTION, POWERS AND FUNCTIONS OF NATIONAL TAX TRIBUNAL

15. (1) An appeal shall lie to the National Tax Tribunal from every order passed in appeal by the Income-tax Appellate Tribunal and the Customs, Excise and Service Tax Appellate Tribunal, if the National Tax Tribunal is satisfied that the case involves a substantial question of law.

**Appeal to
National Tax
Tribunal**

(2) The Chief Commissioner or the Commissioner of Income-tax or the Chief Commissioner or Commissioner of Customs and Central Excise, as the case may be, or an assessee aggrieved by any order passed by the Income-tax Appellate Tribunal or any person aggrieved by any order passed by the Customs, Excise and Service Tax Appellate Tribunal (hereinafter referred to as aggrieved person), may file an appeal to the National Tax Tribunal and such appeal under this sub-section shall-

(a) be filed within one hundred and twenty days from the date on which the order appealed against is received by the assessee or the aggrieved person or the Chief Commissioner or Commissioner, as the case may be;

(b) be in the form of a memorandum of appeal precisely stating therein the substantial question of law involved; and

(c) be accompanied by such fees as may be prescribed:

Provided that separate form of memorandum of appeal shall be filed for matters involving direct and indirect taxes:

Provided further that the National Tax Tribunal may entertain the appeal within sixty days after the expiry of the said period of one hundred and twenty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring an appeal in time.

(3) Where an appeal is admitted under sub-section (1), the National Tax Tribunal.

(a) shall formulate the question of law for hearing the appeal, and;

(b) may also determine any relevant issue in connection with the question so formulated-

(i) which has not been so determined by the Income-tax Appellate Tribunal or by the Customs, Excise and Service Tax Appellate Tribunal; or

(ii) which has been wrongly determined by the Income-tax Appellate Tribunal or by the Customs, Excise and Service Tax Appellate Tribunal, and shall decide the question of law so formulated and the other relevant issue so determined and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(4) Where in any appeal under this section, the decision of the Income-tax Appellate Tribunal or the Customs, Excise and Service Tax Appellate Tribunal involves the payment of any tax or duties, the assessee or the aggrieved person, as the case may be, shall not be allowed to prefer such appeal unless he deposits at least twenty-five percent of such tax or duty payable on the basis of the order appealed against:

Provided that where in a particular case the National Tax Tribunal is of the opinion that the deposit of tax or duty under this sub-section would cause undue hardship to such person, it may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the interest of revenue.

Procedure and powers of National Tax Tribunal

16. (1) The National Tax Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.

5 of 1908

(2) Subject to the other provisions of this Act, the National Tax Tribunal shall have powers to regulate its own procedure.

(3) The National Tax Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

5 of 1908

(a) requiring the discovery and production of books of account and other documents;

1 of 1872

(b) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document, from any office;

(c) dismissing an appeal for default or deciding it, *ex parte*;

(d) setting aside any order of dismissal of any appeal for default or any order passed by it, *ex parte*;

(e) rectifying any mistake or error apparent on the face of record; and

(f) any other matter which may be prescribed.

45 of 1860

(4) All proceedings before the National Tax Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code and the National Tax Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974

17. Any order passed by the National Tax Tribunal shall be final and shall be given effect to accordingly and no civil court shall have or be entitled to exercise any jurisdiction, power or authority with respect to any of the matters falling within the jurisdiction of the National Tax Tribunal.

Finality of orders of National Tax Tribunal

18. If the Members of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson, who shall hear the point or points himself or nominate any other Member for such hearing and such point or points shall be decided according to the opinion of the majority, who have heard the case including those who first heard it.

Decision by majority

19. Where a judgment pronounced on a question of law by a Bench subsequently comes up for hearing before any Bench, and the latter Bench is of the opinion that the question of law requires reconsideration, then the latter Bench shall make a reference to the Chairperson to constitute a Special Bench consisting of five Members to hear and decide such question of law.

Special Bench

20. Notwithstanding anything contained in any other provisions of this Act or any other law for the time being in force, no interim order (whether by way of injunction or stay or otherwise) shall be made in relation to any appeal under this Act, unless-

Interim order

(a) copies of such appeal and all documents in support of the plea for such interim order are furnished to the party against whom the appeal is preferred; and

(b) opportunity is given to such party to be heard in the matter.

21. The National Tax Tribunal shall have and exercise the same jurisdiction, powers and authority in respect of contempt of itself as the High Court has and may exercise such power or authority, for this purpose under the provisions of the Contempt of Courts Act, 1971, which shall have effect subject to the modification that-

Power to punish for contempt

70 of 1971

(a) any reference therein to a High Court shall be construed as including a reference to the National Tax Tribunal;

(b) any reference to the Advocate General in section 15 of the said Act shall be construed as a reference to such law officer as the Central Government may specify in this behalf:

Provided that such matters shall be heard by a Special Bench consisting of five Members constituted by the Chairperson.

22. The National Tax Tribunal may, after giving the parties to any proceedings before it, an opportunity of being heard, pass such orders thereon as it thinks fit.

**Order of
National Tax
Tribunal**

23. (1) On and from such date as the Central Government may, by notification, specify, all matters and proceedings including appeals and references under the direct taxes and indirect taxes pending before any High Court immediately before that date shall stand transferred to the National Tax Tribunal.

**Transfer of
pending cases
from High
Court**

(2) Where any matter or proceeding including appeals and references stand transferred from the High Court to the National Tax Tribunal under sub-section (1),-

(a) the High Court shall, as soon as may be after such transfer, forward the records pertaining to such matter or proceeding to the National Tax Tribunal;

(b) the National Tax Tribunal shall, on receipt of such records, proceed to deal with such matter or proceeding from the stage at which it is transferred or from an earlier stage or *de novo* as it may deem fit;

(c) the Chairperson shall constitute a Bench consisting of such number of Members as he deems fit for hearing cases transferred under this section.

**Appeal to
Supreme
Court**

24. Any person including any department of the Government aggrieved by any decision or order of the National Tax Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the National Tax Tribunal to him:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within such time as it may deem fit.

CHAPTER IV

MISCELLANEOUS

**Members, etc.,
to be public
servants**

25. The Chairperson, Members and other officers and employees of the National Tax Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860

**Protection of
action taken in
good faith**

26. No suit, prosecution or other legal proceedings shall lie against the National Tax Tribunal or its Chairperson, Member, officer or other employee in the discharge of any function for any loss or damage caused or likely to be caused by any act which is, in good faith, done or intended to be done in the discharge of any function under this Act.

**Power to
remove
difficulties**

27. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before each House of Parliament.

**Power to make
rules**

28. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the procedure under sub-section (4) of section 11 for the investigation of charges of misbehaviour or incapacity against the Chairperson or other Members;

(b) the salaries and allowances and other conditions of service of officers and other employees of the National Tax Tribunal under sub-section (2) of section 12;

(c) the amount of fees payable under clause (c) of sub-section (2) of section 15;

(d) the other matters in respect of which the National Tax Tribunal may exercise the powers of a civil court under clause (f) of sub-section (3) of section 16;

(e) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

29. Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

30. On and from such date as the Central Government may, by notification, specify, the enactments mentioned in the Schedule shall stand amended in the manner specified therein.

**Laying of rules
before
Parliament**

**Consequential
amendments**

THE SCHEDULE
(See section 30)
AMENDMENT OF CERTAIN ENACTMENTS
PART I
AMENDMENTS TO THE INCOME-TAX ACT, 1961
(43 OF 1961)

1. In section 2, after clause (29C), the following clause shall be inserted, namely:-

(29D) "National Tax Tribunal" means the National Tax Tribunal established under section 3 of the National Tax Tribunal Act, 2005;

2. In Chapter XX,—

(i) in section 254, in sub-section (4), for the words, figures and letter "Save as provided in section 256 or section 260A", the words and figures "Save as provided in the National Tax Tribunal Act, 2005" shall be substituted;

(ii) sub-heading "*C.-Reference to High Court*" and sections 256, 258 and 259 shall be omitted;

(iii) for section 260, the following section shall be substituted, namely:-

"260.(1) The Supreme Court upon hearing any reference made to it by the Appellate Tribunal under section 257 shall decide the question of law raised therein, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and a copy of the judgment shall be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conforming to such judgment.

(2) Where the National Tax Tribunal delivers a judgment in an appeal filed before it or in any matter transferred to it under the National Tax Tribunal Act, 2005, effect shall be given to the order of that Tribunal by the assessing officer on the basis of certified copy of the judgment.

(3) The cost of any reference to the Supreme Court which shall not include the fee for making the reference shall be at the discretion of the Court."

(iv) in section 260A, in sub-section (1), after the words "order passed in appeal by the Appellate Tribunal", the words "before the date of establishment of the National Tax Tribunal" shall be inserted;

**Effect to the
decisions of
Supreme
Court and of
the National
Tax Tribunal**

(v) in section 261, after the words “any judgment of the High Court delivered”, the words “before the establishment of the National Tax Tribunal” shall be inserted;

(vi) in section 263, in sub-section (3), after the words “the Appellate Tribunal,” the words “National Tax Tribunal,” shall be inserted;

(vii) in section 264, in sub-section (7), after the words “the Appellate Tribunal,” the words “National Tax Tribunal,” shall be inserted.

PART II

AMENDMENTS TO THE WEALTH-TAX ACT, 1957 (27 OF 1957)

1. In section 2, after clause (lc), the following clause shall be inserted, namely:-

(ld) “National Tax Tribunal” means the National Tax Tribunal established under section 3 of the National Tax Tribunal Act, 2005;”

2. In section 25, in sub-section (4), after the words “Appellate Tribunal,” the words “National Tax Tribunal” shall be inserted.

3. In section 27 A,-

(i) in sub-section (1), after the words and figures “file on or after the 1st day of October, 1998”, the words “but before the date of establishment of the National Tax Tribunal” shall be inserted;

(ii) in sub-section (2), after the words “An appeal shall lie to the High Court”, the words “before the date of establishment of the National Tax Tribunal” shall be inserted.

4. In section 29, in sub-section (1), after the words “any judgment of the High Court delivered”, the words “before the date of establishment of the National Tax Tribunal” shall be inserted.

5. In section 29A, after the words “preferred to the Supreme Court”, the words and figures “under this Act before the commencement of the National Tax Tribunal Act, 2005” shall be inserted.

PART III**AMENDMENTS TO THE EXPENDITURE-TAX ACT, 1987
(35 OF 1987)**

- I. In section 13, in sub-section (4), for the words “or any order of a High Court”, the words “or any order of the National Tax Tribunal or of a High Court” shall be substituted.
2. In section 21, in sub-section (7), after the words “Appellate Tribunal,” the words “the National Tax Tribunal,” shall be inserted.

PART IV**AMENDMENTS TO THE INTEREST-TAX ACT, 1974
(45 OF 1974)**

- I. In section 19, in sub-section (3), after the words “the Appellate Tribunal”, the words “the National Tax Tribunal” shall be inserted.
2. In section 20, in sub-section (7), for the words “Appellate Tribunal, the High Court or the Supreme Court”, the words “Appellate Tribunal, the National Tax Tribunal, the High Court or the Supreme Court shall be substituted.

PART V**AMENDMENT TO THE FINANCE (No. 2) ACT, 1998
(21 OF 1998)**

In section 76, in sub-section (1), the words, figures, letter and brackets “sections 23, 23A, 24, 25, 28 and 29 of the Wealth-tax Act as amended and section 27A as inserted by the Finance (No.2) Act, 1998”, the words, figures and letter “sections 23, 23A, 24 and 25 of the Wealth-tax Act” shall be substituted.

PART VI**AMENDMENTS TO THE CUSTOMS ACT, 1962
(52 OF 1962)**

- I. In section 2, after clause (30), the following clause shall be inserted, namely:-
(30A) “National Tax Tribunal” means the National Tax Tribunal established under section 3 of the National Tax Tribunal Act, 2005,”
2. In section 27, in sub-section (3), after the words “Appellate Tribunal”, the words, “the National Tax Tribunal” shall be inserted.

3. In section 27A, in the *Explanation*, after the words "Appellate Tribunal", the words "National Tax Tribunal" shall be inserted.
4. In section 28AA, in *Explanations* 1 and 2, after the words "Appellate Tribunal", the words "National Tax Tribunal" shall be inserted.
5. In section 28AB, in *Explanations* 1 and 2, after the words "Appellate Tribunal", the words "National Tax Tribunal" shall be inserted.
6. In section 28B, in sub-section (1), after the words "Appellate Tribunal", the words, "National Tax Tribunal" shall be inserted.
7. Sections 130, 130A, 130B, 130C and 130D shall be omitted.
8. In section 130E, in clause (b), after the words "any order passed", the words "before the establishment of the National Tax Tribunal" shall be inserted.
9. In section 131, after the words "an appeal has been preferred to the Supreme Court", the words and figure "under this Act before the commencement of the National Tax Tribunal Act, 2005" shall be inserted.
10. In section 131C, clause (b) shall be omitted.

PART VII

AMENDMENTS TO THE CENTRAL EXCISE ACT, 1944 (1 OF 1944)

1. In section 2, after clause (f), the following clause shall be inserted, namely:-

(ff) "National Tax Tribunal" means the National Tax Tribunal established under section 3 of the National Tax Tribunal Act, 2005;
2. In section 11 AA, in *Explanations* 1 and 2, after the words "Appellate Tribunal", the words "National Tax Tribunal" shall be inserted.

3. In section 11 AB, in *Explanations* 1 and 2, after the words "Appellate Tribunal", the words "National Tax Tribunal" shall be inserted.

4. In section 11BB, in the *Explanation*, after the words "Appellate Tribunal", the words "National Tax Tribunal" shall be inserted.

5. In section 35C, in sub-section (4), for the words, figures and letters "Save as provided in section 35G or section 35L", the words and figures "Save as provided in the National Tax Tribunal Act, 2005" shall be substituted.

6. Sections 35G, 35H, 35I and 35J shall be omitted.

7. In section 35K,-

(i) in sub-section (1), the words "High Court or the" shall be omitted;

(ii) in sub-section (2),-

(a) the words "the High Court or" occurring at both the places shall be omitted;

(b) the words "as the case may be," shall be omitted.

8. In section 35L, in clause (b), after the words "any order passed", the words "before the establishment of the National Tax Tribunal" shall be inserted.

9. In section 35N, after the words "an appeal has been preferred to the Supreme Court", the words and figures "under this Act before the commencement of the National Tax Tribunal Act, 2005" shall be inserted.

**THE STATE EMBLEM OF INDIA (PROHIBITION OF
IMPROPER USE) ACT, 2005
(AS PASSED BY THE HOUSES OF PARLIAMENT)**

**An
Act**

*to prohibit the improper use of State Emblem of India for
professional and commercial purposes and for matters
connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the
Republic of India as follows:—

1. (1) This Act may be called the State Emblem of India
(Prohibition of Improper Use) Act, 2005.

**Short title
extent
application
and
commencement.**

(2) It extends to the whole of India, and also applies to
citizens of India outside India.

(3) It shall come into force on such date as the Central
Government may, by notification in the Official
Gazette, appoint.

2. In this Act, unless the context otherwise requires, -

Definitions.

(a) “competent authority” means any authority
competent under any law for the time being in force to register
any company, firm, other body of persons or any trade mark
or design or to grant a patent;

(b) “emblem” means the State Emblem of India as
described and specified in the Schedule to be used as an
official seal of the Government.

**Prohibition of
improper use
of emblem.**

3. Notwithstanding anything contained in any other law for
the time being in force, no person shall use the emblem or
any colourable imitation thereof in any manner which tends to
create an impression that it relates to the Government or that
it is an official document of the Central Government or, as the
case may be, the State Government, without the previous
permission of the Central Government or of such officer of
that Government as may be authorised by it in this behalf.

*Explanation:—*For the purposes of this section, “person”
includes a former functionary of the Central Government or
the State Governments.

**Prohibition of
use of emblem
for wrongful
gain.**

4. No person shall use the emblem for the purpose of any trade, business, calling or profession or in the title of any patent, or in any trade mark or design, except in such cases and under such conditions as may be prescribed.

**Prohibition of
registration of
certain
companies
etc.**

5. (1) Notwithstanding anything contained in any other law for the time being in force, no competent authority shall,-

(a) register a vade mark or design which bears the emblem, or

(b) grant a patent in respect of an invention which bears a title containing the emblem.

(2) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority shall refer the question to the Central Government and the decision of the Central Government thereon shall be final.

**General
powers of
Central
Government
to regulate use
of emblem**

6. (1) The Central Government may make such provision by rules as appears to it to be necessary, to regulate the use of the emblem in official seal that is used to offices of the Central Government and the State Governments and their organisations including diplomatic missions abroad, subject to such restrictions and conditions as may be prescribed.

(2) Subject to the provisions of this Act, the Central Government shall have powers-

(a) to notify the use of emblem on stationery, the method of printing or embossing it on demi-official stationery by the constitutional authorities, Ministers, Members of Parliament, Members of Legislative Assemblies, officers of the Central Government and the State Governments;

(b) to specify the design of the official seal consisting of the emblem;

(c) to restrict the display of emblem on vehicles of constitutional authorities, foreign dignitaries, Ministers of the Central Government and the State Governments;

(d) to provide for guidelines for display of emblem on public buildings in India, the diplomatic missions and on the buildings occupied by India's consulates abroad;

(e) to specify conditions for the use of emblem for various other purposes including the use for educational purposes and the armed forces personnel;

(f) to do all such things (including the specification of design of the emblem and its use in the manner whatsoever) as the Central Government considers necessary or expedient for the exercise of the foregoing powers.

7. (1) Any person who contravenes the provisions of section 3 shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both, or if having been previously convicted of an offence under this section, is again convicted of any such offence, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which shall not be less than six months, which may extend to two years and with fine which may extend to five thousand rupees.

Penalty.

(2) Any person who contravenes the provisions of section 4 for any wrongful gain shall be punishable for such offence with imprisonment for a term which shall not be less than six months, which may extend to two years and with fine which may extend to five thousand rupees.

8. No prosecution for any offence punishable under this Act shall be instituted, except with the previous sanction of the Central Government or of any officer authorised in this behalf by general or special order of the Central Government.

**Previous
sanction for
prosecution.**

9. Nothing in this Act shall exempt any person from any suit or other proceedings which might be brought against him under any other law for the time being in force.

Savings

10. The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or instrument having effect by virtue of such enactment.

**Act to have
overriding
effect.**

11. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

**Power to make
rules.**

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

(a) cases and conditions regulating the use of emblem under section 4;

(b) making rules to regulate the use of the emblem in official seal of the Government and specifying restrictions and conditions relating thereto under sub-section (1) of section 6;

(c) the use of emblem on stationery, design of official seal consisting of emblem and other matters under sub-section (2) of section 6;

(d) authorising officer by general or special order for giving previous sanction for instituting prosecution under section 8; and

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 2(b)]

STATE EMBLEM OF INDIA

DESCRIPTION AND DESIGN

The State Emblem of India is an adaptation from the Sarnath Lion Capital of Asoka which is preserved in the Sarnath Museum. The Lion Capital has four lions mounted back to back on a circular abacus. The frieze of the abacus is adorned with sculptures in high relief of an elephant, a galloping horse, a bull and a lion separated by intervening Dharma Chakras. The abacus rests on a bell-shaped lotus.

The profile of the Lion Capital showing three lions mounted on the abacus with a Dharma Chakra in the centre, a bull on the right and a galloping horse on the left, and outlines of Dharma Chakras on the extreme right and left has been adopted as the State Emblem of India. The bell-shaped lotus has been omitted.

The motto "Satyameva Jayate"- Truth alone triumphs-written in Devanagari script below the profile of the Lion Capital is part of the State Emblem of India.

The State Emblem of India shall conform to the designs as set out in Appendix I or Appendix II.

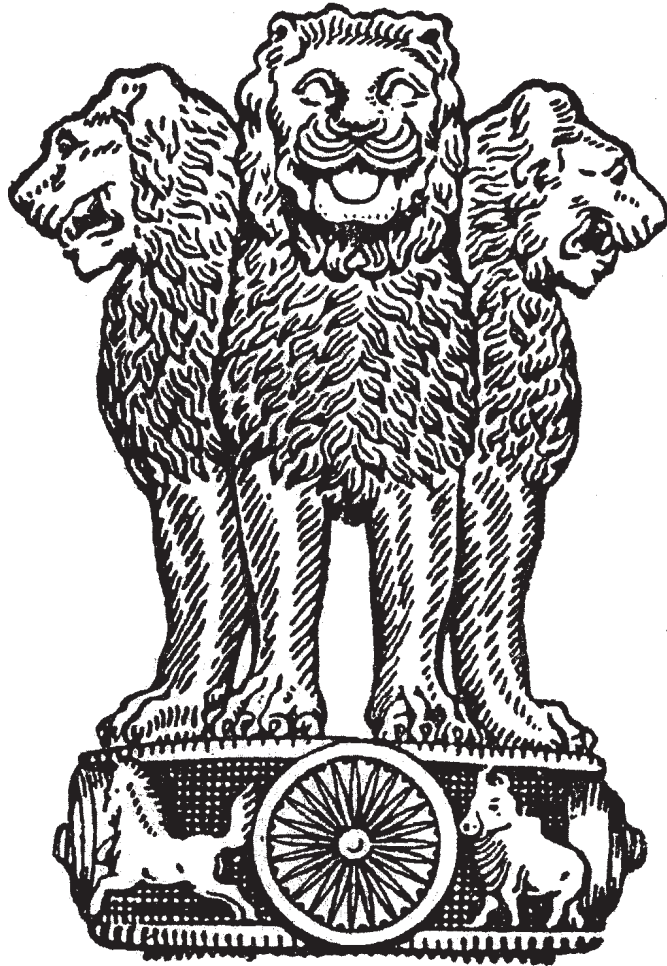
APPENDIX I



सत्यमेव जयते

Note.- This design is in simplified form and meant for reproduction in small sizes, such as for use in stationery, seals and die-printing.

APPENDIX I



सत्यमेव जयते

Note.- This design is more detailed and meant for reproduction in bigger sizes.

THE PREVENTION OF INSULTS TO NATIONAL HONOUR (AMENDMENT) ACT, 2005

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN

ACT,

Further to amend the Prevention of Insults to National Honour Act, 1971.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows :—

1. This Act may be called the Prevention of Insults to National Honour (Amendment) Act, 2005.

Short title.

2. In the Prevention of Insults to National Honour Act, 1971, in Section 2, in *Explanation 4*, for clause (e), the following clause shall be substituted namely :—

Amendment
of section of Act 69
of 1971.

“(e).using the Indian National Flag, —

(i) as a portion of costume, uniform or accessory of any description which is worn below the waist of any person; or

(ii) by embroidering or printing it on cushions, handkerchiefs, napkins, undergarments or any dress materials; or”.

THE APPROPRIATION (RAILWAYS) No. 5 ACT, 2005

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN

ACT,

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2005-06 for the purposes of Railways.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows :—

1. This Act may be called the Appropriation (Railways) No. 5 Act, 2005

Short title

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two hundred crore and sixty-six thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2005-06, in respect of the services relating to Railways specified in column 2 of the Schedule.

Issue of
Rs. 200,00,66,000
out of the
Consolidated Fund
of India for the
financial year
2005-06

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act-shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Appropriation

THE SCHEDULE

(SEE SECTION 2 AND 3)

1	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
2	Miscellaneous Expenditure (General)..	1,000	—	1,000
16	Assets – Acquisition, Construction and Replacement — <i>Other Expenditure</i>			
	Capital	200,00,05,000	—	200,00,05,000
	Railway Funds	50,000	—	50,000
	Railway Safety Funds	10,000	—	10,000
	Total.	200,00,66,000	—	200,00,66,000

THE DISASTER MANAGEMENT ACT 2005**ARRANGEMENT OF SECTIONS****CHAPTER I****PRELIMINARY**

Sections

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II**THE NATIONAL DISASTER MANAGEMENT AUTHORITY**

3. Establishment of National Disaster Management Authority.
4. Meetings of National Authority.
5. Appointment of officers and other employees of the National Authority.
6. Powers and functions of National Authority.
7. Constitution of advisory committee by National Authority.
8. Constitution of National Executive Committee.
9. Constitution of sub-committees.
10. Powers and functions of National Executive Committee.
11. National Plan.
12. Guidelines for minimum standards of relief.
13. Relief in loan repayment, etc.

CHAPTER III**STATE DISASTER MANAGEMENT AUTHORITIES**

14. Establishment of State Disaster Management Authority.
15. Meetings of the State Authority.
16. Appointment of officers and other employees of State Authority.
17. Constitution of advisory committee by the State Authority.
18. Powers and functions of State Authority.
19. Guidelines for minimum standard of relief by State Authority.
20. Constitution of State Executive Committee.
21. Constitution of sub-committees by State Executive Committee.
22. Functions of the State Executive Committee.
23. State Plan.
24. Powers and functions of State Executive Committee in the event of threatening disaster situation.

CHAPTER IV**DISTRICT DISASTER MANAGEMENT AUTHORITY**

25. Constitution of District Disaster Management Authority.
26. Powers of Chairperson of District Authority.
27. Meetings.
28. Constitution of advisory committees and other committees.
29. Appointment of officers and other employees of District Authority.
30. Powers and functions of District Authority.
31. District Plan.
32. Plans by different authorities at district level and their implementation.
33. Requisition by the District Authority.
34. Powers and functions of District Authority in die event of any threatening disaster situation or disaster.

CHAPTER V**MEASURES BY THE GOVERNMENT FOR DISASTER MANAGEMENT**

35. Central Government to take measures.
36. Responsibilities of Ministries or Departments of Government of India.
37. Disaster management plans of Ministries or Departments of Government of India.
38. State Government to take measures.
39. Responsibilities of departments of the State Government
40. Disaster management plan of departments of State.

CHAPTER VI**LOCAL AUTHORITIES**

41. Functions of die local aumority.

CHAPTER VII**NATIONAL INSTITUTE OF DISASTER MANAGEMENT**

42. National Institute of Disaster Management.
43. Officers and other employees of die National Institute.

CHAPTER VIII**NATIONAL DISASTER RESPONSE FORCE**

44. National Disaster Respbiiise Force.
45. Control, direction, etc.

CHAPTERLIX**FINANCE, ACCOUNTS AND AUDIT**

- 46. National Disaster Response Fund.
- 47. National Mitigation fund.
- 48. Establishment of funds by State Government.
- 49. Allocation of funds by Ministries and Departments.
- 50. Emergency procurement and accounting.

CHAPTER X**OFFENCES AND PENALTIES**

- 51. Punishment for obstruction, etc.
- 52. Punishment for false claim
- 53. Punishment for misappropriation of money or materials, etc.
- 54. Punishment for false warning.
- 55. Offences by Departments of the Government.
- 56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.
- 57. Penalty for contravention of any order regarding requisitioning.
- 58. Offence by companies.
- 59. Previous sanction for prosecution.
- 60. Cognizance of offences.

CHAPTER XI**MISCELLANEOUS**

- 61. Prohibition against discrimination.
- 62. Power to issue direction by Central Government.
- 63. Powers to be made available for rescue operations.
- 64. Making or amending rules, etc., in certain circumstances.
- 65. Power of requisition of resources, provisions, vehicles, etc., for rescue operations, etc.
- 66. Payment of compensation.
- 67. Direction to media for communication of warnings, etc.
- 68. Authentication of orders or decisions.
- 69. Delegation of powers.
- 70. Annual report.
- 71. Bar of jurisdiction of court.
- 72. Act to have overriding effect.
- 73. Action taken in good faith.
- 74. Immunity from legal process.
- 75. Power of Central Government to make rules.
- 76. Power to make regulations.
- 77. Rules and regulations to be laid before Parliament.
- 78. Power of State Government to make rules.
- 79. Power to remove difficulties.

THE DISASTER MANAGEMENT ACT 2005
(AS PASSED BY THE HOUSES OF PARLIAMENT)

An

ACT

to provide for the effective management of disasters and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Disaster Management Act, 2005.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint; and different dates may be appointed for different provisions of this Act and for different States, and any reference to commencement in any provision of this Act in relation to any State shall be construed as a reference to the commencement of that provision in that State.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “affected area” means an area or part of the country affected by a disaster;

(b) “capacity-building” includes—

(i) identification of existing resources and resources to be acquired or created;

(ii) acquiring or creating resources identified under sub-clause (i);

(iii) organisation and training of personnel and coordination of such training for effective management of disasters;

(c) “Central Government” means the Ministry or Department of the Government of India having administrative control of disaster management;

(d) “disaster” means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;

(e) “disaster management” means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for—

- (i) prevention of danger or threat of any disaster;
 - (ii) mitigation or reduction of risk of any disaster or its severity or consequences;
 - (iii) capacity-building;
 - (iv) preparedness to deal with any disaster;
 - (v) prompt response to any threatening disaster situation or disaster;
 - (vi) assessing the severity or magnitude of effects of any disaster;
 - (vii) evacuation, rescue and relief;
 - (viii) rehabilitation and reconstruction;
- (f) "District Authority" means the District Disaster Management Authority constituted under sub-section (1) of section 25;
- (g) "District Plan" means the plan for disaster management for the district prepared under section 31;
- (h) "local authority" includes panchayati raj institutions, municipalities, a district board, cantonment board, town planning authority or Zila Parishad or any other body or authority, by whatever name called, for the time being invested by law, for rendering essential services or, with the control and management of civic services, within a specified local area;
- (i) "mitigation" means measures aimed at reducing the risk, impact or effects of a disaster or threatening disaster situation;
- (j) "National Authority" means the National Disaster Management Authority established under sub-section (1) of section 3;
- (k) "National Executive Committee" means the Executive Committee of the National Authority constituted under sub-section (1) of section 8;
- (l) "National Plan" means the plan for disaster management for the whole of the country prepared under section 11;
- (m) "preparedness" means the state of readiness to deal with a threatening disaster situation or disaster and the effects thereof;
- (n) "prescribed" means prescribed by rules made under this Act;
- (o) "reconstruction" means construction or restoration of any property after a disaster;
- (p) "resources" includes manpower, services, materials and provisions;
- (q) "State Authority" means the State Disaster Management Authority established under sub-section (1) of section 14 and includes the Disaster Management Authority for the Union territory constituted under that section;
- (r) "State Executive Committee" means the Executive Committee of a State Authority constituted under sub-section (1) of section 20;

(s) "State Government" means the Department of Government of the State having administrative control of disaster management and includes Administrator of the Union territory appointed by the President under article 239 of the Constitution;

(t) "State Plan" means the plan for disaster management for the whole of the State prepared under section 23.

CHAPTER II

THE NATIONAL DISASTER MANAGEMENT AUTHORITY

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint in this behalf, there shall be established for the purposes of this Act, an authority to be known as the National Disaster Management Authority.

Establishment of
National Disaster
Management
Authority.

(2) The National Authority shall consist of the Chairperson and such number of other members, not exceeding nine, as may be prescribed by the Central Government and, unless the rules otherwise provide, the National Authority shall consist of the following:—

(a) the Prime Minister of India, who shall be the Chairperson of the National Authority, *ex-officio*;

(b) other members, not exceeding nine, to be nominated by the Chairperson of the National Authority.

(3) The Chairperson of the National Authority may designate one of the members nominated under clause (b) of sub-section (2) to be the Vice-Chairperson of the National Authority.

(4) The term of office and conditions of service of members of the National Authority shall be such as may be prescribed.

4. (1) The National Authority shall meet as and when necessary and at such time and place as the Chairperson of the National Authority may think fit.

Meetings of
National Authority.

(2) The Chairperson of the National Authority shall preside over the meetings of the National Authority.

(3) If for any reason the Chairperson of the National Authority is unable to attend any meeting of the National Authority, the Vice-Chairperson of the National Authority shall preside over the meeting.

5. The Central Government shall provide the National Authority with such officers, consultants and employees, as it considers necessary for carrying out the functions of the National Authority.

Appointment of
officers and other
employees of the
National Authority.

Powers and
functions of
National Authority.

6. (1) Subject to the provisions of this Act, the National Authority shall have the responsibility for laying down the policies, plans and guidelines for disaster management for ensuring timely and effective response to disaster.

(2) Without prejudice to generality of the provisions contained in sub-section (1), the National Authority may —

(a) lay down policies on disaster management;

(b) approve the National Plan;

(c) approve plans prepared by the Ministries or Departments of the Government of India in accordance with the National Plan;

(d) lay down guidelines to be followed by the State Authorities in drawing up the State Plan;

(e) lay down guidelines to be followed by the different Ministries or Departments of the Government of India for the purpose of integrating the measures for prevention of disaster or the mitigation of its effects in their development plans and projects;

(f) coordinate the enforcement and implementation of the policy and plan for disaster management;

(g) recommend provision of funds for the purpose of mitigation;

(h) provide such support to other countries affected by major disasters as may be determined by the Central Government;

(i) take such other measures for the prevention of disaster, or the mitigation, or preparedness and capacity building for dealing with the threatening disaster situation or disaster as it may consider necessary;

(j) lay down broad policies and guidelines for the functioning of the National Institute of Disaster Management.

(3) The Chairperson of the National Authority shall, in the case of emergency, have power to exercise all or any of the powers of the National Authority but exercise of such powers shall be subject to *ex post facto* ratification by the National Authority.

Constitution of
advisory committee
by National
Authority.

7. (1) The National Authority may constitute an advisory committee consisting of experts in the field of disaster management and having practical experience of disaster management at the national, State or district level to make recommendations on different aspects of disaster management.

(2) The members of the advisory committee shall be paid such allowances as may be prescribed by the Central Government in consultation with the National Authority.

Constitution of
National Executive
Committee.

8. (1) The Central Government shall, immediately after issue of notification under sub-section (1) of section 3, constitute a National Executive Committee to assist the National Authority in the performance of its functions under this Act.

(2) The National Executive Committee shall consist of the following members, namely:—

(a) the Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the disaster management, who shall be Chairperson, *ex officio*;

(b) the Secretaries to the Government of India in the Ministries or Departments having administrative control of the agriculture, atomic energy, defence, drinking water supply, environment and forests, finance (expenditure), health, power, rural development, science and technology, space, telecommunication, urban development, water resources and the Chief of the Integrated Defence Staff of the Chiefs of Staff Committee, *ex officio*.

(3) The Chairperson of the National Executive Committee may invite any other officer of the Central Government or a State Government for taking part in any meeting of the National Executive Committee and shall exercise such powers and perform such functions as may be prescribed by the Central Government in consultation with the National Authority.

(4) The procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions shall be such as may be prescribed by the Central Government.

9. (1) The National Executive Committee may, as and when it considers necessary, constitute one or more sub-committees, for the efficient discharge of its functions.

Constitution of sub-Committees.

(2) The National Executive Committee shall, from amongst its members, appoint the Chairperson of the sub-committee referred to in sub-section (1).

(3) Any person associated as an expert with any sub-committee may be paid such allowances as may be prescribed by the Central Government.

10. (1) The National Executive Committee shall assist the National Authority in the discharge of its functions and have the responsibility for implementing the policies and plans of the National Authority and ensure the compliance of directions issued by the Central Government for the purpose of disaster management in the country.

Powers and functions of National Executive Committee.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the National Executive Committee may—

(a) act as the coordinating and monitoring body for disaster management;

(b) prepare the National Plan to be approved by the National Authority;

(c) coordinate and monitor the implementation of the National Policy;

(d) lay down guidelines for preparing disaster management plans by different Ministries or Departments of the Government of India and the State Authorities;

(e) provide necessary technical assistance to the State Governments and the State Authorities for preparing their disaster management plans in accordance with the guidelines laid down by the National Authority;

(f) monitor the implementation of the National Plan and the plans prepared by the Ministries or Departments of the Government of India;

(g) monitor the implementation of the guidelines laid down by the National Authority for integrating of measures for prevention of disasters and mitigation by the Ministries or Departments in their development plans and projects;

(h) monitor, coordinate and give directions regarding the mitigation and preparedness measures to be taken by different Ministries or Departments and agencies of the Government;

(i) evaluate the preparedness at all governmental levels for the purpose of responding to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness;

(j) plan and coordinate specialised training programme for disaster management for different levels of officers, employees and voluntary rescue workers;

(k) coordinate response in the event of any threatening disaster situation or disaster;

(l) lay down guidelines for, or give directions to, the concerned Ministries or Departments of the Government of India, the State Governments and the State Authorities regarding measures to be taken by them in response to any threatening disaster situation or disaster;

(m) require any department or agency of the Government to make available to the National Authority or State Authorities such men or material resources as are available with it for the purposes of emergency response, rescue and relief;

(n) advise, assist and coordinate the activities of the Ministries or Departments of the Government of India, State Authorities, statutory bodies, other governmental or non-governmental organisations and others engaged in disaster management;

(o) provide necessary technical assistance or give advice to the State Authorities and District Authorities for carrying out their functions under this Act;

(p) promote general education and awareness in relation to disaster management; and

(q) perform such other functions as the National Authority may require it to perform.

National Plan.

11. (1) There shall be drawn up a plan for disaster management for the whole of the country to be called the National Plan.

(2) The National Plan shall be prepared by the National Executive Committee having regard to the National Policy and in consultation with the State Governments and expert bodies or organisations in the field of disaster management to be approved by the National Authority.

(3) The National Plan shall include—

(a) measures to be taken for the prevention of disasters, or the mitigation of their effects;

(b) measures to be taken for the integration of mitigation measures in the development plans;

(c) measures to be taken for preparedness and capacity building to effectively respond to any threatening disaster situations or disaster;

(d) roles and responsibilities of different Ministries or Departments of the Government of India in respect of measures specified in clauses (a), (b) and (c).

(4) The National Plan shall be reviewed and updated annually.

(5) Appropriate provisions shall be made by the Central Government for financing the measures to be carried out under the National Plan.

(6) Copies of the National Plan referred to in sub-sections (2) and (4) shall be made available to the Ministries or Departments of the Government of India and such Ministries or Departments shall draw up their own plans in accordance with the National Plan.

Guidelines for
minimum standards
of relief.

12. The National Authority shall recommend guidelines for the minimum standards of relief to be provided to persons affected by disaster, which shall include,—

(i) the minimum requirements to be provided in the relief camps in relation to shelter, food, drinking water, medical cover and sanitation;

(ii) the special provisions to be made for widows and orphans;

(iii) *ex gratia* assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood;

(iv) such other relief as may be necessary.

Relief in loan
repayment, etc.

13. The National Authority may in cases of disasters of severe magnitude, recommend relief in repayment of loans or grant of fresh loans to the persons affected by disaster on such concessional terms as may be appropriate.

CHAPTER III

STATE DISASTER MANAGEMENT AUTHORITIES

14. (1) Every State Government shall, as soon as may be after the issue of the notification under sub-section (1) of section 3, by notification in the Official Gazette, establish a State Disaster Management Authority for the State with such name as may be specified in the notification of the State Government.

Establishment of
State Disaster
Management
Authority.

(2) A State Authority shall consist of the Chairperson and such number of other members, not exceeding nine, as may be prescribed by the State Government and, unless the rules otherwise provide, the State Authority shall consist of the following members, namely:—

(a) the Chief Minister of the State, who shall be Chairperson, *ex officio*;

(b) other members, not exceeding eight, to be nominated by the Chairperson of the State Authority;

(c) the Chairperson of the State Executive Committee, *ex officio*.

(3) The Chairperson of the State Authority may designate one of the members nominated under clause (b) of sub-section (2) to be the Vice-Chairperson of the State Authority.

(4) The Chairperson of the State Executive Committee shall be the Chief Executive Officer of the State Authority, *ex officio*:

Provided that in the case of a Union Territory having Legislative Assembly, except the Union territory of Delhi, the Chief Minister shall be

the Chairperson of the Authority established under this section and in case of other Union territories, the Lieutenant Governor or the Administrator shall be the Chairperson of that Authority:

Provided further that the Lieutenant Governor of the Union territory of Delhi shall be the Chairperson and the Chief Minister thereof shall be the Vice-Chairperson of the State Authority.

(5) The term of office and conditions of service of members of the State Authority shall be such as may be prescribed.

15. (1) The State Authority shall meet as and when necessary and at such time and place as the Chairperson of the State Authority may think fit.

Meetings of the State Authority.

(2) The Chairperson of the State Authority shall preside over the meetings of the State Authority.

(3) If for any reason, the Chairperson of the State Authority is unable to attend the meeting of the State Authority, the Vice-Chairperson of the State Authority shall preside at the meeting.

16. The State Government shall provide the State Authority with such officers, consultants and employees, as it considers necessary, for carrying out the functions of the State Authority.

Appointment of officers and other employees of State Authority

17. (1) A State Authority may, as and when it considers necessary, constitute an advisory committee, consisting of experts in the field of disaster management and having practical experience of disaster management to make recommendations on different aspects of disaster management.

Constitution of Advisory Committee by the State Authority.

(2) The members of the advisory committee shall be paid such allowances as may be prescribed by the State Government.

Powers and functions of State Authority.

18. (1) Subject to the provisions of this Act, a State Authority shall have the responsibility for laying down policies and plans for disaster management in the State.

(2) Without prejudice to the generality of provisions contained in subsection (1) the State Authority may —

(a) lay down the State disaster management policy;

(b) approve the State Plan in accordance with the guidelines laid down by the National Authority;

(c) approve the disaster management plans prepared by the departments of the Government of the State;

(d) lay down guidelines to be followed by the departments of the Government of the State for the purposes of integration of measures for prevention of disasters and mitigation in their development plans and projects and provide necessary technical assistance therefor;

(e) coordinate the implementation of the State Plan;

(f) recommend provision of funds for mitigation and preparedness measures;

(g) review the development plans of the different departments of the State and ensure that prevention and mitigation measures are integrated therein;

(h) review the measures being taken for mitigation, capacity building and preparedness by the departments of the Government of the State and issue such guidelines as may be necessary.

(3) The Chairperson of the State Authority shall, in the case of emergency, have power to exercise all or any of the powers of the State Authority but the exercise of such powers shall be subject to *ex post facto* ratification of the State Authority.

Guidelines for minimum standard of relief by the State Authority.

19. The State Authority shall lay down detailed guidelines for providing standards of relief to persons affected by disaster in the State:

Provided that such standards shall in no case be less than the minimum standards in the guidelines laid down by the National Authority in this regard.

Constitution of State Executive Committee.

20. (1) The State Government shall, immediately after issue of notification under sub-section (1) of section 14, constitute a State Executive Committee to assist the State Authority in the performance of its functions and to coordinate action in accordance with the guidelines laid down by the State Authority and ensure the compliance of directions issued by the State Government under this Act.

(2) The State Executive Committee shall consist of the following members, namely:—

(a) the Chief Secretary to the State Government, who shall be Chairperson, *ex officio*;

(b) four Secretaries to the Government of the State of such departments as the State Government may think fit, *ex officio*.

(3) The Chairperson of the State Executive Committee shall exercise such powers and perform such functions as may be prescribed by the State Government and such other powers and functions as may be delegated to him by the State Authority.

(4) The procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions shall be such as may be prescribed by the State Government.

21. (1) The State Executive Committee may, as and when it considers necessary, constitute one or more sub-committees, for efficient discharge of its functions.

Constitution of sub-committees by State Executive Committee.

(2) The State Executive Committee shall, from amongst its members, appoint the Chairperson of the sub-committee referred to in sub-section (1).

(3) Any person associated as an expert with any sub-committee may be paid such allowances as may be prescribed by the State Government.

22. (1) The State Executive Committee shall have the responsibility for implementing the National Plan and State Plan and act as the coordinating and monitoring body for management of disaster in the State.

Functions of the State Executive Committee.

(2) Without prejudice to the generality of the provisions of sub-section (1), the State Executive Committee may—

(a) coordinate and monitor the implementation of the National Policy, the National Plan and the State Plan;

(b) examine the vulnerability of different parts of the State to different forms of disasters and specify measures to be taken for their prevention or mitigation;

(c) lay down guidelines for preparation of disaster management plans by the departments of the Government of the State and the District Authorities;

(d) monitor the implementation of disaster management plans prepared by the departments of the Government of the State and District Authorities;

(e) monitor the implementation of the guidelines laid down by the State Authority for integrating of measures for prevention of disasters and mitigation by the departments in their development plans and projects;

(f) evaluate preparedness at all governmental or non-governmental levels to respond to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness;

(g) coordinate response in the event of any threatening disaster situation or disaster;

(h) give directions to any Department of the Government of the State or any other authority or body in the State regarding actions to be taken in response to any threatening disaster situation or disaster;

(i) promote general education, awareness and community training in regard to the forms of disasters to which different parts of the State are vulnerable and the measures that may be taken by such community to prevent the disaster, mitigate and respond to such disaster;

(j) advise, assist and coordinate the activities of the Departments of the Government of the State, District Authorities, statutory bodies and other governmental and non-governmental organisations engaged in disaster management;

(k) provide necessary technical assistance or give advice to District Authorities and local authorities for carrying out their functions effectively;

(l) advise the State Government regarding all financial matters in relation to disaster management;

(m) examine the construction, in any local area in the State and, if it is of the opinion that the standards laid for such construction for the prevention of disaster is not being or has not been followed, may direct the District Authority or the local authority, as the case may be, to take such action as may be necessary to secure compliance of such standards;

(n) provide information to the National Authority relating to different aspects of disaster management;

(o) lay down, review and update State level response plans and guidelines and ensure that the district level plans are prepared, reviewed and updated;

(p) ensure that communication systems are in order and the disaster management drills are carried out periodically;

(q) perform such other functions as may be assigned to it by the State Authority or as it may consider necessary.

State Plan.

23. (1) There shall be a plan for disaster management for every State to be called the State Disaster Management Plan.

(2) The State Plan shall be prepared by the State Executive Committee having regard to the guidelines laid down by the National Authority and after such consultation with local authorities, district authorities and the people's representatives as the State Executive Committee may deem fit.

(3) The State Plan prepared by the State Executive Committee under sub-section (2) shall be approved by the State Authority.

(4) The State Plan shall include,—

(a) the vulnerability of different parts of the State to different forms of disasters;

(b) the measures to be adopted for prevention and mitigation of disasters;

(c) the manner in which the mitigation measures shall be integrated with the development plans and projects;

(d) the capacity-building and preparedness measures to be taken;

(e) the roles and responsibilities of each Department of the Government of the State in relation to the measures specified in clauses (b), (c) and (d) above;

(f) the roles and responsibilities of different Departments of the Government of the State in responding to any threatening disaster situation or disaster.

(5) The State Plan shall be reviewed and updated annually.

(6) Appropriate provisions shall be made by the State Government for financing for the measures to be carried out under the State Plan.

(7) Copies of the State Plan referred to in sub-sections (2) and (5) shall be made available to the Departments of the Government of the State and such Departments shall draw up their own plans in accordance with the State Plan.

Powers and
functions of State
Executive
Committee in the
event of
threatening
disaster situation.

24. For the purpose of, assisting and protecting the community affected by disaster or providing relief to such community or, preventing or combating disruption or dealing with the effects of any threatening disaster situation, the State Executive Committee may—

(a) control and restrict, vehicular traffic to, from or within, the vulnerable or affected area;

(b) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;

(c) remove debris, conduct search and carry out rescue operations;

(d) provide shelter, food, drinking water, essential provisions, healthcare and services in accordance with the standards laid down by the National Authority and State Authority;

(e) give direction to the concerned Department of the Government of the State, any District Authority or other authority, within the local limits of the State to take such measure or steps for rescue, evacuation or providing immediate relief saving lives or property, as may be necessary in its opinion;

(f) require any department of the Government of the State or any other body or authority or person in charge of any relevant resources to make available the resources for the purposes of emergency response, rescue and relief;

(g) require experts and consultants in the field of disasters to provide advice and assistance for rescue and relief;

(h) procure exclusive or preferential use of amenities from any authority or person as and when required;

(i) construct temporary bridges or other necessary structures and demolish unsafe structures which may be hazardous to public;

(j) ensure that non-governmental organisations carry out their activities in an equitable and non-discriminatory manner;

(k) disseminate information to public to deal with any threatening disaster situation or disaster;

(l) take such steps as the Central Government or the State Government may direct in this regard or take such other steps as are required or warranted by the form of any threatening disaster situation or disaster.

CHAPTER IV

DISTRICT DISASTER MANAGEMENT AUTHORITY

25. (1) Every State Government shall, as soon as may be after issue of notification under sub-section (1) of section 14, by notification in the Official Gazette, establish a District Disaster Management Authority for every district in the State with such name as may be specified in that notification.

Constitution of
District Disaster
Management
Authority.

(2) The District Authority shall consist of the Chairperson and such number of other members, not exceeding seven, as may be prescribed by the State Government, and unless the rules otherwise provide, it shall consist of the following, namely:—

(a) the Collector or District Magistrate or Deputy Commissioner, as the case may be, of the district who shall be Chairperson, *ex officio*;

(b) the elected representative of the local authority who shall be the co-Chairperson, *ex officio*;

Provided that in the Tribal Areas, as referred to in the Sixth Schedule to the Constitution, the Chief Executive Member of the district council of autonomous district, shall be the co-Chairperson, *ex officio*;

(c) the Chief Executive Officer of the District Authority, *ex officio*;

(d) the Superintendent of Police, *ex officio*;

(e) the Chief Medical Officer of the district, *ex officio*;

(f) not exceeding two other district level officers, to be appointed by the State Government.

(3) In any district where zila parishad exists, the Chairperson thereof shall be the co-Chairperson of the District Authority.

(4) The State Government shall appoint an officer not below the rank of Additional Collector or Additional District Magistrate or Additional Deputy Commissioner, as the case may be, of the district to be the Chief Executive Officer of the District Authority to exercise such powers and perform such functions as may be prescribed by the State Government and such other powers and functions as may be delegated to him by the District Authority.

26. (1) The Chairperson of the District Authority shall, in addition to presiding over the meetings of the District Authority, exercise and discharge such powers and functions of the District Authority as the District Authority may delegate to him.

Powers of
Chairperson of
District Authority.

(2) The Chairperson of the District Authority shall, in the case of an emergency, have power to exercise all or any of the powers of the District Authority but the exercise of such powers shall be subject to *ex post facto* ratification of the District Authority.

(3) The District Authority or the Chairperson of the District Authority may, by general or special order, in writing, delegate such of its or his powers and functions, under sub-section (1) or (2), as the case may be, to the Chief Executive Officer of the District Authority, subject to such conditions and limitations, if any, as it or he deems fit.

Meetings.

27. The District Authority shall meet as and when necessary and at such time and place as the Chairperson may think fit.

Constitution of
advisory
committees and
other committees

28. (1) The District Authority may, as and when it considers necessary, constitute one or more advisory committees and other committees for the efficient discharge of its functions.

(2) The District Authority shall, from amongst its members, appoint the Chairperson of the Committee referred to in sub-section (1).

(3) Any person associated as an expert with any committee or sub-committee constituted under sub-section (1) may be paid such allowances as may be prescribed by the State Government.

Appointment of
officers and other
employees of
District Authority.

29. The State Government shall provide the District Authority with such officers, consultants and other employees as it considers necessary for carrying out the functions of District Authority.

Powers and
functions of District
Authority.

30. (1) The District Authority shall act as the district planning, coordinating and implementing body for disaster management and take all measures for the purposes of disaster management in the district in accordance with the guidelines laid down by the National Authority and the State Authority.

(2) Without prejudice to the generality of the provisions of sub-section (1), the District Authority may—

(i) prepare a disaster management plan including district response plan for the district;

(ii) coordinate and monitor the implementation of the National Policy, State Policy, National Plan, State Plan and District Plan;

(iii) ensure that the areas in the district vulnerable to disasters are identified and measures for the prevention of disasters and the mitigation of its effects are undertaken by the departments of the Government at the district level as well as by the local authorities;

(iv) ensure that the guidelines for prevention of disasters, mitigation of its effects, preparedness and response measures as laid down by the National Authority and the State Authority are followed by all departments of the Government at the district level and the local authorities in the district;

(v) give directions to different authorities at the district level and local authorities to take such other measures for the prevention or mitigation of disasters as may be necessary;

(vi) lay down guidelines for prevention of disaster management plans by the department of the Government at the districts level and local authorities in the district;

(vii) monitor the implementation of disaster management plans prepared by the Departments of the Government at the district level;

(viii) lay down guidelines to be followed by the Departments of the Government at the district level for purposes of interagation of measures for prevention of disasters and mitigation in their development plans and projects and provide necessary technical assistance therefor;

(ix) monitor the implementation of measures referred to in clause (viii);

(x) review the state of capabilities for responding to any disaster or threatening disaster situation in the district and give directions to the relevant departments or authorities at the district level for their upgradation as may be necessary;

(xi) review the preparedness measures and give directions to the concerned departments at the district level or other concerned authorities where necessary for bringing the preparedness measures to the levels required for responding effectively to any disaster or threatening disaster situation;

(xii) organise and coordinate specialised training programmes for different levels of officers, employees and voluntary rescue workers in the district;

(xiii) facilitate community training and awareness programmes for prevention of disaster or mitagation with the support of local authorities, governmental and non-governmental organisations;

(xiv) set up maintain, review and upgrade the mechanism for early warnings and dissemination of proper information to public;

(xv) prepare , review and update district level response plan and guidelines;

(xvi) coordinate response to any threatening disaster situation or disaster;

(xvii) ensure that the Departments of the Government at the district level and the local authorities prepare their response plans in accordance with the district response plan;

(xviii) lay down guidelines for, or give direction to, the concerned Department of the Government at the district level or any other authorities within the local limits of the district to take measures to respond effectively to any threatening disaster situation or disaster;

(xix) advise, assist and coordinate the activities of the Departments of the Government at the district level statutory bodies and other governmental and non-governmental organisations in the district engaged in the disaster management;

(xx) coordinate with, and give guidelines to, local authorities in the district to ensure that measures for the prevention or mitigation of threatening disaster situation or disaster in the district are carried out promptly and effectively;

(xxi) provide necessary technical assistance or give advise to the local authorities in the district for carrying out their functions;

(xxii) review development plans prepared by the Departments of the Government at the district level, statutory authorities or local authorities with a view to make necessary provisions therein for prevention of disaster or mitigation;

(xxiii) examine the construction in any area in the district and, if it is of the opinion that the standards for the prevention of disaster or mitigation laid down for such construction is not being or has not been followed, may direct the concerned authority to take such action as may be necessary to secure compliance of such standards;

(xxiv) identify buildings and places which could, in the event of any threatening disaster situation or disaster, be used as relief centers or camps and make arrangements for water supply and sanitation in such buildings or places;

(xxv) establish stockpiles of relief and rescue materials or ensure preparedness to make such materials available at a short notice;

(xxvi) provide information to the State Authority relating to different aspects of disaster management;

(xxvii) encourage the involvement of non-governmental organisations and voluntary social-welfare institutions working at the grassroots level in the district for disaster management;

(xxviii) ensure communication systems are in order, and disaster management drills are carried out periodically;

(xxix) perform such other functions as the State Government or State Authority may assign to it or as it deems necessary for disaster management in the District;

District Plan.

31. (1) There shall be a plan for disaster management for every district of the State;

(2) The District Plan shall be prepared by the District Authority, after consultation with the local authorities and having regard to the National Plan and the State Plan, to be approved by the State Authority.

(3) The District Plan shall include—

(a) the areas in the district vulnerable to different forms of disasters;

(b) the measures to be taken, for prevention and mitigation of disaster, by the Departments of the Government at the district level and local authorities in the district;

(c) the capacity-building and preparedness measures required to be taken by the Departments of the Government at the district level and the local authorities in the district to respond to threatening disaster situation or disaster;

(d) the response plans and procedures, in the event of a disaster, providing for—

(i) allocation of responsibilities to the Departments of the Government at the district level and the local authorities in the district;

(ii) prompt response to disaster and relief thereof;

(iii) procurement of essential resources;

(iv) establishment of communication links; and

(v) the dissemination of information to the public;

(e) such other matters as may be required by the State Authority.

(4) The District Plan shall be reviewed and updated annually.

(5) The copies of the District Plan referred to in sub-sections (2) and (4) shall be made available to the Departments of the Government in the District.

(6) The District Authority shall send a copy of the District Plan to the State Authority which shall forward it to the State Government.

(7) The District Authority shall review from time to time, the implementation of the Plan and issue such instructions to different departments of the Government in the district as it may deem necessary for the implementation thereof.

Plans by different
authorities at
district level and
their
implementation.

32. Every office of the Government of India and the State Government at the district level and the local authorities shall, subject to the supervision of the District Authority,—

(a) prepare a disaster management plan setting out the following, namely:—

(i) provisions for prevention and mitigation measures as provided for in the District Plan and as is assigned to the department or agency concerned

(ii) provisions for taking measures relating to capacity-building and preparedness as laid down in the District Plan;

(iii) the response plans and procedures, in the event of, any threatening disaster situation or disaster;

(b) coordinate the preparation and the implementation of its plan with those of the other organisations at the district level including local authority, communities and other stakeholders;

(c) regularly review and update the plan; and

(d) resubmit a copy of its disaster management plan, and of any amendment thereto, to the District Authority.

33. The District Authority may by order require any officer or any Department at the district level or any local authority to take such measures for the prevention or mitigation of disaster, or to effectively respond to it, as may be necessary, and such officer or department shall be bound to carry out such order.

Requisition by the District Authority.

34. For the purpose of assisting, protecting or providing relief to the community, in response to any threatening disaster situation or disaster, the District Authority may—

Powers and functions of District Authority in the event of any threatening disaster situation or disaster.

(a) give directions for the release and use of resources available with any Department of the Government and the local authority in the district;

(b) control and restrict vehicular traffic to, from and within, the vulnerable or affected area;

(c) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;

(d) remove debris, conduct search and carry out rescue operations;

(e) provide shelter, food, drinking water and essential provisions, healthcare and services;

(f) establish emergency communication systems in an affected area;

(g) make arrangements for the disposal of the unclaimed dead bodies;

(h) recommend to any Department of the Government of the State or any authority or body under that Government at the district level to take such measures as are necessary in its opinion;

(i) require experts and consultants in the relevant fields to advise and assist as it may deem necessary;

(j) procure exclusive or preferential use of amenities from any authority or person;

(k) construct temporary bridges or other necessary structures and demolish structures which may be hazardous to public or aggravate the effects of the disaster;

(l) ensure that the non-governmental organisations carry out their activities in an equitable and non-discriminatory manner;

(m) take such other steps as may be required or warranted to be taken in such a situation.

CHAPTER V

MEASURES BY THE GOVERNMENT FOR DISASTER MANAGEMENT

Central
Government to
take measures.

35. (1) Subject to the provisions of this Act, the Central Government shall take all such measures as it deems necessary or expedient for the purpose of disaster management.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the measures which the Central Government may take under that sub-section include measures with respect to all or any of the following matters, namely:—

(a) coordination of actions of the Ministries or Departments of the Government of India, State Governments, National Authority, State Authorities, governmental and non-governmental organisations in relation to disaster management;

(b) ensure the interagation of measures for prevention of disasters and mitigation by Ministries or Departments of the Government of India into their development plans and projects;

(c) ensure appropriate allocation of funds for prevention of disaster, mitigation, capacity-building and preparedness by the Ministries or Departments of the Government of India;

(d) ensure that the Ministries or Departments of the Government of India take necessary measures for preparedness to promptly and effectively respond to any threatening disaster situation or disaster;

(e) cooperation and assistance to State Governments, as requested by them or otherwise deemed appropriate by it;

(f) deployment of naval, military and air forces, other armed forces of the Union or any other civilian personnel as may be required for the purposes of this Act;

(g) coordination with the United Nations agencies, international organisations and governments of foreign countries for the purposes of this Act;

(h) establish institutions for research, training, and developmental programmes in the field of disaster management;

(i) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act.

(3) The Central Government may extend such support to other countries affected by major disaster as it may deem appropriate.

Responsibilities of
Ministries or
Departments of
Government of
India.

36. It shall be the responsibility of every Ministry or Department of the Government of India to—

(a) take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority;

(b) integrate into its development plans and projects, the measures for prevention or mitigation of disasters in accordance with the guidelines laid down by the National Authority;

(c) respond effectively and promptly to any threatening disaster situation or disaster in accordance with the guidelines of the National Authority or the directions of the National Executive Committee in this behalf;

(d) review the enactments administered by it, its policies, rules and regulations, with a view to incorporate therein the provisions necessary for prevention of disasters, mitigation or preparedness;

(e) allocate funds for measures for prevention of disaster, mitigation, capacity-building and preparedness;

(f) provide assistance to the National Authority and State Governments for—

(i) drawing up mitigation, preparedness and response plans, capacity-building, data collection and identification and training of personnel in relation to disaster management;

(ii) carrying out rescue and relief operations in the affected area;

(iii) assessing the damage from any disaster;

(iv) carrying out rehabilitation and reconstruction;

(g) make available its resources to the National Executive Committee or a State Executive Committee for the purposes of responding promptly and effectively to any threatening disaster situation or disaster, including measures for—

(i) providing emergency communication in a vulnerable or affected area;

(ii) transporting personnel and relief goods to and from the affected area;

(iii) providing evacuation, rescue, temporary shelter or other immediate relief;

(iv) setting up temporary bridges, jetties and landing places;

(v) providing, drinking water, essential provisions, healthcare, and services in an affected area;

(h) take such other actions as it may consider necessary for disaster management.

37. (1) Every Ministry or Department of the Government of India shall—

Disaster
management plans
of Ministries or
Departments of
Government of
India.

(a) prepare a disaster management plan specifying the following particulars, namely:—

(i) the measures to be taken by it for prevention and mitigation of disasters in accordance with the National Plan;

(ii) the specifications regarding integration of mitigation measures in its development plans in accordance with the guidelines of the National Authority and the National Executive Committee;

(iii) its roles and responsibilities in relation to preparedness and capacity-building to deal with any threatening disaster situation or disaster;

(iv) its roles and responsibilities in regard to promptly and effectively responding to any threatening disaster situation or disaster;

(v) the present status of its preparedness to perform the roles and responsibilities specified in sub-clauses (iii) and (iv);

(vi) the measures required to be taken in order to enable it to perform its responsibilities specified in sub-clauses (iii) and (iv);

(b) review and update annually the plan referred to in clause (a);

(c) forward a copy of the plan referred to in clause (a) or clause (b), as the case may be, to the Central Government which Government shall forward a copy thereof to the National Authority for its approval.

(2) Every Ministry or Department of the Government of India shall—

(a) make, while preparing disaster management plan under clause (a) of sub-section (1), provisions for financing the activities specified therein;

(b) furnish a status report regarding the implementation of the plan referred to in clause (a) of sub-section (1) to the National Authority, as and when required by it.

State Government
to take measures.

38. (1) Subject to the provisions of this Act, each State Government shall take all measures specified in the guidelines laid down by the National Authority and such further measures as it deems necessary or expedient, for the purpose of disaster management.

(2) The measures which the State Government may take under sub-section (1) include measures with respect to all or any of the following matters, namely:—

(a) coordination of actions of different departments of the Government of the State, the State Authority, District Authorities, local Authority and other non-governmental organisations;

(b) cooperation and assistance in the disaster management to the National Authority and National Executive Committee, the State Authority and the State Executive Committee, and the District Authorities;

(c) cooperation with and assistance to, the Ministries or Departments of the Government of India in disaster management, as requested by them or otherwise deemed appropriate by it;

(d) allocation of funds for measures for prevention of disaster, mitigation, capacity-building and preparedness by the departments of the Government of the State in accordance with the provisions of the State Plan and the District Plans;

(e) ensure that the integration of measures for prevention of disaster or mitigation by the departments of the Government of the State in their development plans and projects;

(f) integrate in the State development plan, measures to reduce or mitigate the vulnerability of different parts of the State to different disasters;

(g) ensure the preparation of disaster management plans by different departments of the State in accordance with the guidelines laid down by the National Authority and the State Authority;

(h) establishment of adequate warning systems up to the level of vulnerable communities;

(i) ensure that different departments of the Government of the State and the District Authorities take appropriate preparedness measures;

(j) ensure that in a threatening disaster situation or disaster, the resources of different departments of the Government of the State are made available to the National Executive Committee or the State Executive Committee or the District Authorities, as the case may be, for the purposes of effective response, rescue and relief in any threatening disaster situation or disaster;

(k) provide rehabilitation and reconstruction assistance to the victims of any disaster; and

(l) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of provisions of this Act;

Responsibilities of departments of the State Government.

39. It shall be the responsibilities of every department of the Government of a State to—

(a) take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority and the State Authority;

(b) integrate into its development plans and projects, the measures for prevention of disaster and mitigation;

(c) allocate funds for prevention of disaster, mitigation, capacity-building and preparedness;

(d) respond effectively and promptly to any threatening disaster situation or disaster in accordance with the State Plan, and in accordance with the guidelines or directions of the National Executive Committee and the State Executive Committee;

(e) review the enactments administered by it, its policies, rules and regulations with a view to incorporate therein the provisions necessary for prevention of disasters, mitigation or preparedness;

(f) provide assistance, as required, by the National Executive Committee, the State Executive Committee and District Authorities, for—

(i) drawing up mitigation, preparedness and response plans, capacity-building, data collection and identification and training of personnel in relation to disaster management;

(ii) assessing the damage from any disaster;

(iii) carrying out rehabilitation and reconstruction;

(g) make provision for resources in consultation with the State Authority for the implementation of the District Plan by its authorities at the district level;

(h) make available its resources to the National Executive Committee or the State Executive Committee or the District Authorities for the purposes of responding promptly and effectively to any disaster in the State, including measures for—

(i) providing emergency communication with a vulnerable or affected area;

(ii) transporting personnel and relief goods to and from the affected area;

(iii) providing evacuation, rescue, temporary shelter or other immediate relief;

(iv) carrying out evacuation of persons or live-stock from an area of any threatening disaster situation or disaster;

(v) setting up temporary bridges, jetties and landing places;

(vi) providing drinking water, essential provisions, healthcare and services in an affected area;

(i) such other actions as may be necessary for disaster management;

40. (1) Every department of the State Government, in conformity with the guidelines laid down by the State Authority, shall—

Disaster
management plan
of departments of
State.

(a) prepare a disaster management plan which shall lay down the following:—

(i) the types of disasters to which different parts of the State are vulnerable;

(ii) integration of strategies for the prevention of disaster or the mitigation of its effects or both with the development plans and programmes by the department;

(iii) the roles and responsibilities of the department of the State in the event of any threatening disaster situation or disaster and emergency support function it is required to perform;

(iv) present status of its preparedness to perform such roles or responsibilities or emergency support function under sub-clause (iii);

(v) the capacity-building and preparedness measures proposed to be put into effect in order to enable the Ministries or Departments of the Government of India to discharge their responsibilities under Section 37;

(b) annually review and update the plan referred to in clause (a); and

(c) furnish a copy of the plan referred to in clause (a) or clause (b), as the case may be, to the State Authority.

(2) Every department of the State Government, while preparing the plan under sub-section (1), shall make provisions for financing the activities specified therein.

(3) Every department of the State Government, shall furnish an implementation status report to the State Executive Committee regarding the implementation of the disaster management plan referred to in sub-section (1).

CHAPTER VI

LOCAL AUTHORITIES

Functions of the local authority.

41. (1) Subject to the directions of the District Authority, a local authority shall—

(a) ensure that its officers and employees are trained for disaster management;

(b) ensure that resources relating to disaster management are so maintained as to be readily available for use in the event of any threatening disaster situation or disaster;

(c) ensure all construction projects under it or within its jurisdiction conform to the standards and specifications laid down for prevention of disaster and mitigation by the National Authority, State Authority and the District Authority;

(d) carry out relief, rehabilitation and reconstruction activities in the affected area in accordance with the State Plan and the District Plan.

(2) The local authority may take such other measures as may be necessary for the disaster management.

CHAPTER VII

NATIONAL INSTITUTE OF DISASTER MANAGEMENT

National Institute of Disaster Management.

42. (1) with effect from such date as the Central Government may, by notification in the Official Gazette appoint in this behalf, there shall be constituted an institute to be called the National Institute of Disaster Management.

(2) The National Institute of Disaster Management shall consist of such number of members as may be prescribed by the Central Government.

(3) The term of office of, and vacancies among, members of the National Institute of Disaster Management and manner of filling such vacancies shall be such as may be prescribed.

(4) There shall be a governing body of the National Institute of Disaster Management which shall be constituted by the Central Government from amongst the members of the National Institute of Disaster Management in such manner as may be prescribed.

(5) The governing body of the National Institute of Disaster Management shall exercise such powers and discharge such functions as may be prescribed by regulations.

(6) The procedure to be followed in exercise of its powers and discharge of its functions by the governing body, and the term of office of, and the manner of filling vacancies among the members of the governing body, shall be such as may be prescribed by regulations.

(7) Until the regulations are made under this section, the Central Government may make such regulations; and any regulation so made may be altered or rescinded by the National Institute of Disaster Management in exercise of its powers.

(8) Subject to the provisions of this Act, the National Institute of Disaster Management shall function within the broad policies and guidelines laid down by the National Authority and be responsible for planning and promoting training and research in the area of disaster management, documentation and development of national level information base relating to disaster management policies, prevention mechanisms and mitigation measures.

(9) Without prejudice to the generality of the provisions contained in sub-section (8), the National Institute, for the discharge of its functions, may —

(a) develop training modules, undertake research and documentation in disaster management and organise training programmes;

(b) formulate and implement a comprehensive human resource development plan covering all aspects of disaster management;

(c) provide assistance in national level policy formulation;

(d) provide required assistance to the training and research institutes for development of training and research programmes for stakeholders including Government functionaries and undertake training of faculty members of the State level training institutes;

(e) provide assistance to the State Governments and State training institutes in the formulation of State level policies, strategies, disaster management framework and any other assistance as may be required by the State Governments or State training institutes for capacity-building of stakeholders, Government including its functionaries, civil society members, corporate sector and people's elected representatives;

(f) develop educational materials for disaster management including academic and professional courses;

(g) promote awareness among stakeholders including college or school teachers and students, technical personnel and others associated with multi-hazard mitigation, preparedness and response measures;

(h) undertake, organise and facilitate study courses, conferences, lectures, seminars within and outside the country to promote the aforesaid objects;

(i) undertake and provide for publication of journals, research papers and books and establish and maintain libraries in furtherance of the aforesaid objects;

(j) do all such other lawful things as are conducive or incidental to the attainment of the above objects; and

(k) undertake any other function as may be assigned to it by the Central Government.

43. The Central Government shall provide the National Institute of Disaster Management with such officers, consultants and other employees, as it considers necessary, for carrying out its functions.

Officers and other employees of the National Institute.

CHAPTER VIII

NATIONAL DISASTER RESPONSE FORCE

44. (1) There shall be constituted a National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

National Disaster Response Force.

(2) Subject to the provisions of this Act, the Force shall be constituted in such manner and, the conditions of service of the members of the Force, including disciplinary provisions therefor, be such as may be prescribed.

45. The general superintendence, direction and control of the Force shall be vested and exercised by the National Authority and the command and supervision of the Force shall vest in an officer to be appointed by the Central Government as the Director General of the National Disaster Response Force.

Control direction, etc.

CHAPTER IX

FINANCE, ACCOUNTS AND AUDIT

46. (1) The Central Government may, by notification in the Official Gazette, constitute a fund to be called the National Disaster Response Fund for meeting any threatening disaster situation or disaster and there shall be credited thereto —

National Disaster Response Fund.

(a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf provide;

(b) any grants that may be made by any person or institution for the purpose of disaster management.

(2) The National Disaster Response Fund shall be made available to the National Executive Committee to be applied towards meeting the expenses for emergency response, relief and rehabilitation in accordance with the guidelines laid down by the Central Government in consultation with the National Authority.

47. (1) The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Disaster Mitigation Fund for projects exclusively for the purpose of mitigation and there shall be credited thereto such amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

National Disaster Mitigation Fund.

(2) The National Disaster Mitigation Fund shall be applied by the National Authority.

Establishment of funds by State Government.

48. (1) The State Government shall, immediately after notifications issued for constituting the State Authority and the District Authorities, establish for the purposes of this Act the following funds, namely:—

- (a) the fund to be called the State Disaster Response Fund;
- (b) the fund to be called the District Disaster Response Fund;
- (c) the fund to be called the State Disaster Mitigation Fund;
- (d) the fund to be called the District Disaster Mitigation Fund.

(2) The State Government shall ensure that the funds established—

- (i) under clause (a) of sub-section (1) is available to the State Executive Committee;
- (ii) under sub-clause (c) of sub-section (1) is available to the State Authority;
- (iii) under clauses (b) and (d) of sub-section (1) are available to the District Authority.

Allocation of funds by Ministries and Departments.

49. (1) Every Ministry or Department of the Government of India shall make provisions, in its annual budget, for funds for the purposes of carrying out the activities and programmes set out in its disaster management plan.

(2) The provisions of sub-section (1) shall, *mutatis mutandis*, apply to departments of the Government of the State.

Emergency procurement and accounting.

50. Where by reason of any threatening disaster situation or disaster, the National Authority or the State Authority or the District Authority is satisfied that immediate procurement of provisions or materials or the immediate application of resources are necessary for rescue or relief,—

(a) it may authorise the concerned department or authority to make the emergency procurement and in such case, the standard procedure requiring inviting of tenders shall be deemed to be waived;

(b) a certificate about utilisation of provisions or materials by the controlling officer authorised by the National Authority, State Authority or District Authority, as the case may be, shall be deemed to be a valid document or voucher for the purpose of accounting of emergency, procurement of such provisions or materials.

CHAPTER X

OFFENCES AND PENALTIES

51. Whoever, without reasonable cause —

(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or

Punishment for obstruction, etc.

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

52. Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

Punishment for false claim.

53. Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

Punishment for misappropriation of money or materials, etc..

54. Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

Punishment for false warning.

55. (1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Offences by Departments of the Government.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

56. Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

Failure of officer in duty or his connivance at the contravention of the provisions of this Act.

57. If any person contravenes any order made under Section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Penalty for contravention of any order regarding requisitioning.

Offence by
companies.

58. (1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section —

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Previous sanction
for prosecution.

59. No prosecution for offences punishable under Sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

Cognizance of
offences.

60. No court shall take cognizance of an offence under this Act except on a complaint made by—

(a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or

(b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.”.

CHAPTER XI

MISCELLANEOUS

Prohibition against
discrimination.

61. While providing compensation and relief to the victims of disaster, there shall be no discrimination on the ground of sex, caste, community, descent or religion.

Power to issue direction by Central Government.

62. Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Central Government to issue direction in writing to the Ministries or Departments of the Government of India, or the National Executive Committee or the State Government, State Authority, State Executive Committee, statutory bodies or any of its officers or employees, as the case may be, to facilitate or assist in the disaster management and such Ministry or Department or Government or Authority, Executive Committee, statutory body, officer or employee shall be bound to comply with such direction.

Powers to be made available for rescue operations.

63. Any officer or authority of the Union or a State, when requested by the National Executive Committee, any State Executive Committee or District Authority or any person authorised by such Committee or Authority in this behalf, shall make available to that Committee or authority or person, such officers and employees as requested for, to perform any of the functions in connection with the prevention of disaster or mitigation or rescue or relief work.

64. Subject to the provisions of this Act, if it appears to the National Executive Committee, State Executive Committee or the District Authority, as the case may be, that provisions of any rule, regulation, notification, guideline, instruction, order, scheme or bye-laws, as the case may be, are required to be made or amended for the purposes of prevention of disasters or the mitigation thereof, it may require the amendment of such rules, regulation, notification, guidelines, instruction, order, scheme or bye-laws, as the case may be, for that purpose, and the appropriate department or authority shall take necessary action to comply with the requirements.

Making or amending rules, etc., in certain circumstances.

65. (1) If it appears to the National Executive Committee, State Executive Committee or District Authority or any officer as may be authorised by it in this behalf that—

Power of requisition of resources, provisions vehicles, etc., for rescue operations, etc.

(a) any resources with any authority or person are needed for the purpose of prompt response;

(b) any premises are needed or likely to be needed for the purpose of rescue operations; or

(c) any vehicle is needed or is likely to be needed for the purposes of transport of resources from disaster affected areas or transport of resources to the affected area or transport in connection with rescue, rehabilitation or reconstruction,

such authority may, by order in writing, requisition such resources or premises or such vehicle, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning.

(2) Whenever any resource, premises or vehicle is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such resource, premises or vehicle is required for any of the purposes mentioned in that sub-section.

(3) In this section —

(a) “resources” includes men and material resources;

(b) “services” includes facilities;

(c) “premises” means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(d) “vehicle” means any vehicle used or capable of being used for the purpose of transport, whether propelled by mechanical power or otherwise.

66. (1) Whenever any Committee, Authority or officer referred to in sub-section (1) of Section 65, in pursuance of that section requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

Payment of compensation.

(i) the rent payable in respect of the premises, or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if as consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the thirty days to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the Central Government or the State Government, as the case may be, to an arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression “person interested” means the person who was in actual possession of the premises requisitioned under Section 64 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever any Committee, Authority or officer, referred to in sub-Section (1) of Section 63 in pursuance of that section requisitions any vehicle, there shall be paid to the owner thereof compensation the amount of which shall be determined by the Central Government or the State Government, as the case may be, on the basis of the fares or rates prevailing in the locality for the hire of such vehicle:

Provided that where the owner of such vehicle being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government or the State Government, as

the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the Central Government or the State Government, as the case may be, in this behalf may decide.

Direction to media
for communication
of warnings, etc.

67. The National Authority, the State Authority, or a District Authority may recommend to the Government to give direction to any authority or person in control of any audio or audio-visual media or such other means of communication as may be available to carry any warning or advisories regarding any threatening disaster situation or disaster, and the said means of communication and media as designated shall comply with such direction.

Authentication of
orders or
decisions.

68. Every order or decision of the National Authority or the National Executive Committee, the State Authority, or the State Executive Committee or the District Authority, shall be authenticated by such officers of the National Authority or the National Executive Committee or, the State Executive Committee, or the District Authority, as may be authorised by it in this behalf.

Delegation of
powers.

69. The National Executive Committee, State Executive Committee, as the case may be, by general or special order in writing, may delegate to the Chairperson or any other member or to any officer, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary.

Annual report.

70. (1) The National Authority shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament within one month of its receipt.

(2) The State Authority shall prepare once in every year, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the State Government and that Government shall cause the same to be laid before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

71. No court (except the Supreme Court or a High Court) shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken, orders made, direction, instruction or guidelines issued by the Central Government, National Authority, State Government, State Authority or District Authority in pursuance of any power conferred by, or in relation to its functions, by this Act.

Bar of jurisdiction of
court.

72. The provisions of this Act, shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have overriding effect.

73. No suit or prosecution or other proceeding shall lie in any court against the Central Government or the National Authority or the State Government or the State Authority or the District Authority or local authority or any officer or employee of the Central Government or the National Authority or the State Government or the State Authority or the District Authority or local authority or any person working for on behalf of such Government or authority in respect of any work done or purported to have been done or intended to be done in good faith by such authority or Government or such officer or employee or such person under the provisions of this Act or the rules or regulations made thereunder.

Action taken in good faith.

74. Officers and employees of the Central Government, National Authority, National Executive Committee, State Government, State Authority, State Executive Committee or District Authority shall be immune from legal process in regard to any warning in respect of any impending disaster communicated or disseminated by them in their official capacity or any action taken or direction issued by them in pursuance of such communication or dissemination.

Immunity from legal process.

75. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the composition and number of the members of the National Authority under sub-section (2), and the term of-office and conditions of service of members of the National Authority under sub-section (4), of Section 3;

(b) the allowances to be paid to the members of the advisory committee under sub-section (2) of Section 7;

(c) the powers and functions of the Chairperson of the National Executive Committee under sub-section (3) of Section 8 and the procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions under sub-section (4) of Section 8;

(d) allowances to be paid to the persons associated with the sub-committee constituted by the National Executive Committee under sub-section (3) of section 9;

(e) the number of members of the National Institute of Disaster Management under sub-section (2), the term of the office and vacancies among members and the manner of filling such vacancies under sub-section (3) and the manner of constituting the Governing Body of the National Institute of Disaster Management under sub-section (4) of Section 42;

(f) the manner of constitution of the Force, the conditions of service of the members of the Force, including disciplinary provisions under sub-section (2) of Section 44;

(g) the manner in which notice of the offence and of the intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government or the other authority or officer under clause (b) of Section 60;

(h) the form in which and the time within which annual report is to be prepared under Section 70;

(i) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

Power to make regulations.

76. (1) The National Institute of Disaster Management, with the previous approval of the Central Government may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) powers and functions to be exercised and discharged by the governing body;

(b) procedure to be followed by the governing body in exercise of the powers and discharge of its functions;

(c) any other matter for which under this Act provision may be made by the regulations.

Rules and regulations to be laid before Parliament.

77. Every rule made by the Central Government and every regulation made by the National Institute of Disaster Management under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised of one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power of State Government to make rules.

78. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the composition and number of the members of the State Authority under sub-section (2), and the term of office and conditions of service of the members of the State Authority under sub-section (5), of Section 14;

(b) the allowances to be paid to the members of the advisory committee under sub-section (2) of Section 17;

(c) the powers and functions of the Chairperson of the State Executive Committee under sub-section (3), and the procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions under sub-section (4) of Section 20;

(d) allowances to be paid to the persons associated with the sub-committee constituted by the State Executive Committee under sub-section (3) of Section 21;

(e) the composition and the number of members of the District Authority under sub-section (2), and the powers and functions to be exercised and discharged by the Chief Executive Officer of the District Authority under sub-section (3) of Section 25;

(f) allowances payable to the persons associated with any committee constituted by the District Authority as experts under sub-section (3) of Section 28;

(g) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House before that House.

79. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government or the State Government, as the case may be, by notification in the Official Gazette, make order not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament or the Legislature, as the case may be.

A.K. SANGMA,
Under Secretary to the Govt. of Meghalaya,
Law (B) Department.